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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,545	01/25/2007	Anthony J. Abbate	112129.411USPC	9067
41551 7590 08/13/2009 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVENUE, SUITE 5400 SEATTLE, WA 98104-7092				
EXAMINER				
NGUYEN, DINH Q				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
08/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,545

Applicant(s)

ABBATE ET AL.

Examiner

Dinh Q. Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-15, 23, 25-28, 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Duronio et al.

Duronio et al. discloses a device for dispensing a multi-component composition comprised of a mixture of a plurality of different fluid components 16/18, the device comprising: a plurality of fluid component inlets 22/24, each adapted to communicate with a source of a different fluid component 16/18; at least one carrier fluid inlet adjacent shoulder 71 adapted to communicate with a source of a pressurized carrier fluid (pressurized gas within cylindrical wall 75, see column 6 lines 13-31); a diffuser surface 14 located downstream from the plurality of fluid component inlets 22/24 and the at least one carrier fluid inlet; and an outlet 48 extending through the diffuser surface 14 and aligned with the plurality of carrier fluid inlets 22/24 wherein the diffuser surface 14 is adapted to receive fluid components thereon, and has a shape effective to direct and maintain each received fluid component in a different flow path 50/52 toward the outlet 48 for mixing and dispensing therethrough by the pressurized carrier fluid from the at least one carrier fluid inlet (see Figures 3-5 and column 4, lines 19-42). Furthermore,

the handle 21 can be removed to provide the fluid components 16/18 with means for individually applying different flow rates toward the diffuser surface 14.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 16-22, 24, 29-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Duronio et al. in view of Goyet et al.

Duronio et al. discloses all the limitations of the claims except for a slot shaped orifice. However, Goyet et al. teaches a multi-component dispensing device with different fluid components 1/2 and a slot shaped orifice (see figure 2). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Duronio et al. with a slot shaped orifice as suggested by Goyet et al. Doing so would provide a fan spray pattern.

With respect to claims 16, 17, 19-24, 30-32, 34, 35, Duronio et al. in view of Goyet et al. teaches all the limitations of the claims except for the different types of multi-component compositions. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Rohs et al. in view of Goyet et al. with the different types of multi-component compositions. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either claimed different multi-

component compositions or the Duronio et al. and Goyet et al.'s multi-component compositions. Therefore, it would have been an obvious matter of design choice to modify the device of Duronio et al. and Goyet et al. to obtain the invention as specified in claims 15, 17, 19-24, 30-32, 34, 35. Furthermore, the device of Duronio et al. or Goyet et al. capable of dispensing any types of multi-component compositions.

Response to Arguments

5. Applicant's arguments filed May 11, 2009 have been fully considered but they are not persuasive in view of Duronio et al. and Goyet et al. references as indicated above.
6. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

//Dinh Q Nguyen/
Primary Examiner, Art Unit 3752

dqn